



**DEPARTMENT OF
ADMINISTRATION**
STATE PROCUREMENT

June 4, 2018

VIA EMAIL

Brent Nelson
Laurel Nelson
Nelson Auto Center
PO Box 338
Fergus Falls, MN 56538-0338

Re: Resolution of Overcharges

Dear Mr. and Mrs. Nelson:

A number of matters continue to require attention and resolution. The issues currently unresolved are as follows:

GPC Audit: On April 20, 2018, Nelson Auto Center (Nelson's) confirmed the Department of Administration's (Admin) assertion that Nelson's received an additional \$156 in Government Price Concession (GPC) for Ford Interceptor law enforcement vehicles sold in Model Year 2015 through Model Year 2017. At this time, we understand that you have provided the Ford audit division with a listing of all the units that received this additional GPC. As of May 22, 2018, you were awaiting direction from Ford on how to make payment to them. The State of Minnesota will require documentation of the repayment to Ford along with an itemized detail of the units for which this repayment was made.

In the absence of documentation verifying that the additional \$156 in GPC per vehicle has been repaid to Ford, the State will require the amounts be paid to end-users of contract #83065.

Action Required: Please provide the requested documentation by June 8, 2018.

715/745 Pre-orders: During a meeting in Fergus Falls on March 27, 2018, the State first learned that Nelson's fleet department pre-ordered 279 vehicles at price code level 715 which were later sold to State customers at a higher price code level 745. The structure of the contractual agreement between Nelson's and the State of Minnesota contemplates Nelson's passing along the lowest available pricing for vehicles. If Nelson's pre-ordered vehicles at a lower price, the State's contract users were entitled to that lower pricing.

Further, users of the State's contracts often place custom orders and vehicles can vary depending on a wide variety of manufacturer options available to ordering law enforcement agencies. Many jurisdictions did not receive the exact vehicle they ordered. This pre-order tactic may explain why

customers ended up with vehicles that did not conform to the order they placed. The approach taken by Nelson's fleet department to pre-order vehicles is inconsistent with the spirit of the custom order process contemplated under the contract.

Nelson's has responded to this issue indicating that it had taken on risk and liability in the event these units were never sold and that the State actually received a benefit from this tactic because it allowed vehicles to be delivered more quickly. The State does not find this response to be persuasive. Based on prior sales data and the experience of the fleet manager, there is no reason to believe that there was any real risk of the vehicles remaining on the lot. Further, any benefit received by the State was outweighed by the fact that many of the end users did not get the vehicle equipped exactly as they had ordered.

Nelson's deviation from the structure and intent of the contract resulted in a monetary windfall in favor of the dealership and was detrimental to the law enforcement agency customers. As a result, Nelson's should not reap the benefit of the difference in pricing between the 715 and 745 price codes.

Action Required: The State is seeking reimbursement for the difference in price for the 279 vehicles sold at the 745 price level code, including both the charges for the base vehicle and all applicable options. The State is requesting Nelson's to compile an accounting of these overcharges and present it to the State by June 25, 2018 for verification and payment.

Package Pricing: In April, as part of the State's continuing pricing review, we asked Nelson's to provide breakdowns of certain invoices so that we could better understand and verify pricing details. As part of that process, Nelson's identified a new scenario where it was believed "option(s) that were added to the unit but part of a larger package and not given credit for that option." The State has done an initial review of this scenario and has found other instances where options were charged despite being included in a separate equipment package.

For example, on Nelson Auto Center invoice #F5559 for a Ford SUV sold to Hennepin County, two equipment packages were sold and some of the component options were also charged:

1. The "Ready for the Road Package" (option code 67H) was priced and sold for \$2,979. Four components that should have been included in this equipment package were charged to Hennepin County: Front Headlamp Lighting Solution (66A) \$797, Tail Lamp Lighting Solution (66B) \$371, Rear Lighting Solution (66C) \$415, and Ultimate Wiring Package (67U) \$481.
2. The "Front Headlamp Lighting Solution" (66A) was priced and sold for \$797. Prewiring for grille lamp, siren and speaker (60A) should have been included, but was priced and sold for \$45.

On Invoice #F5559 alone, the State calculates Nelson overcharged Hennepin County \$2,109 for equipment packages.

Brent and Laurel Nelson

June 4, 2018

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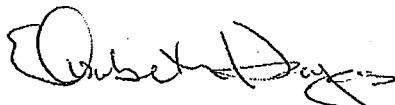
Action Required: The State is proceeding to complete a review of all police vehicle contract transactions involving package pricing. The State will require that Nelson provide equipment package inclusion documentation for each model year. Once complete, the State will be seeking reimbursement from Nelson's on all documented overcharges that have occurred as a result of this issue.

BCA Audit: The breakdown data provided by Nelson's also brought to light some overcharges that we do not believe were captured as part of the BCA audit. The overcharges appear to range in amounts. For example, on Nelson Invoice #F6042 for a Ford SUV sold to the City of Minnetrista, Nelson provided a credit of \$103 for declining the carpeting option (16C) when the contract price was \$110, and provided a credit of \$29 for declining the rear door locks option (68G) when the contract price was \$30. The State calculates that Nelson overcharged the City of Minnetrista an additional \$8 on this sale.

Action Required: The State is proceeding to complete a review of all police vehicle contract transactions in which Nelson provided a credit less than the contract price. Once complete, the State will be seeking reimbursement from Nelson's on all documented overcharges that have occurred as a result of this issue.

We hope that Nelson's continues to share our objective of ensuring our customers fully recover all that is owed to them.

Sincerely,



Elizabeth Hayes
Office of State Procurement
Chief Procurement Officer

c: Matt Massman, Commissioner, Department of Administration
Lenora Madigan, Deputy Commissioner, Department of Administration
Alice Roberts-Davis, Assistant Commissioner